IN THE HIGH COURT OF DELHI

Bail Application No.1974/2007

Harbhajan Singh ..... Petitioner

VERSUS

$ State ..... Respondent

Bail Application No.2130/2007

Satyawati ..... Petitioner

VERSUS

$ State ..... Respondent

! Present: Mr.Ramesh Gupta for petitioners.
Mr.Tasveer Solanki for complainant.
Mr.Jaideep Malik for the State.

% DATE OF DECISION: 04.10.2007

CORAM:

* **Hon'ble Mr.Justice Pradeep Nandrajog**

1. Whether reporters of local papers may be allowed to see the judgment? Y

2. To be referred to the Reporter or not? Y

3. Whether judgment should be reported in Digest? Y

: **PRADEEP NANDRAJOG, J.**

FIR No.458/07 dated 17.6.2007
under Section 498-A/304-B/34 IPC
PS Mehrauli.

1. Petitioner Harbhajan Singh seeks regular bail, pending trial, in the afore-noted FIR. His wife, Satyawati seeks pre-arrest bail in the said FIR.

2. Pradeep, son of the petitioners was married to Ritu on

7.2.2005. Unfortunately, on 17.6.2007 Ritu committed suicide by hanging. No suicide note has been found.

3. FIR in question was registered on 17.6.2007 on the basis of statement made before the learned Sub Divisional Magistrate by the father of Ritu.

4. Vijay Singh, father of Ritu stated before the learned Sub Divisional Magistrate that his daughter aged 23 years was married with Pradeep on 7.2.2005 and at the time of marriage he gave gold ornaments weighing 80 tolas, Rs.2.5 lacs in cash, television, refrigerator, air-conditioner, sofa set and various other household articles as also an Optra car. That after a few days of her marriage his daughter was harassed and was told to bring a Skoda car and Rs.5 lacs in cash. That his daugher told him that her husband, father-in-law, mother-in-law and brother-in-law used to beat her to compel her to put pressure on her father to satisfy the demand of the in-laws. That for the last 1½ – 2 months his daughter had been staying with him and had gone back to her matrimonial house only on 6.6.2007. That today he received a telephone call from his daughter's father-in-law informing him that his daughter had expired.

5. On 17.6.2007 itself, Lalit, brother of Ritu also made a statement before the Sub Divisional Magistrate informing that his sister was married to Pradeep on 7.2.2005 and that after 2 -3 months of the marriage, the in-laws of his sister started taunting

her for bringing insufficient dowry. Many a times her husband, Pradeep, attempted to throttle her. That he i.e. Lalit had spoken to the father of Pradeep on numerous occasions who counselled Pradeep but Pradeep did not listen even to his father. That Pradeep used to demand a Skoda car. That on the 6.6.2007 his sister had returned to her matrimonial house after living in her parent's house for about a month.

6. Statement of Ritu's mother was recorded by the police after about nearly 33 days of her death. In said statement, mother of Ritu has stated that a day prior to the date of incident Ritu had informed her i.e. Ritu's mother that the in-laws were pressurizing her to get more money as also to compel her parents to give her a Skoda car.

7. It is urged by learned counsel for the petitioners that Section 304-B IPC would be attracted only where the death is linked to a dowry demand and there is a live and proximate connection between the dowry demand and death i.e. there has to be prima facie material to show that soon before the bride committed suicide, there was a demand for dowry and due to said demand which was nothing but a harassment, the young bride was forced to take the extreme step. Counsel urged that contempraneous statements recorded by the Sub Divisional Magistrate as made by the father and brother of the deceased nowhere referred to any demand soon before the young bride

committed suicide. Additionally, placing reliance upon the statement of the brother of the deceased, learned counsel urged that far from inculpating the petitioners, the brother of the deceased had clearly stated that Harbhajan Singh, the father-in-law of the deceased had tried to counsel his son. It was urged that the gravement of the allegations in the statements made by the father and brother of Ritu are directed against Pradeep, the son of the petitioners.

8. Per contra, learned counsel for the State who opposed the application for bail as also anticipatory bail vehemently argued that considering the fact that the deceased died within 1 year and 4 months from date of her marriage, statements made by the parents and the brother of the deceased were prima facie sufficient evidence to nail the petitioners. Counsel urged that dowry menace is spreading like a cancer in the society and needs to be curbed with a heavy hand.

9. Learned counsel for the complainant submitted that if petitioners are released on bail, a very negative signal would be sent to the society viz. it is very easy to get away after compelling the bride to end her life.

10. It is no doubt true that the evil of dowry is spreading like a cancer in the society. Despite stringent anti dowry laws the evil practice of dowry is pervading all sections of the society and has even crossed religious and social boundaries. Ethnic groups

in India as also various social and religious groups where dowry was unheard of have fallen prey to the evil of dowry.

11. It is unfortunate that legislation has not been able to curb the menace of dowry.

12. Are we trying to solve a problem at the wrong end? Can legislation curb the menace of dowry? The answer appears to be that legislation has failed to curb the menace of dowry. Thus, solutions have to be found elsewhere.

13. Being an evil social custom practice in the society, dowry menace has to be curbed by bringing a social revolution. We need a social reformer. May be, with women empowerment dowry menace would be automatically curbed.

14. Be that as it may, issue of grant of bail and pre-arrest bail has to be determined on the well recognized principles of law. The gravity and seriousness of the offence; the nature of evidence which is surfacing against the accused; the possibility of the accused absconding from justice and the possibility of the accused tampering with evidence are some of the relevant considerations which have to be kept in view.

15. It has to be noted that statement of the mother of Ritu was recorded when Harbhajan had applied for bail.

16. Prima facie there is an improvement with respect to the gravement of the allegations against the in-laws of Ritu in the statement made by mother of Ritu. Whereas neither father nor

brother of Ritu, in their statements, stated about any harassment pertaining to dowry a day prior to the date when Ritu died, mother of Ritu disclosed said fact for the first time.

17. I find a prima facie viewpoint, worthy of consideration, in the submissions made by learned counsel for the petitioners that had there been dowry harassment a day prior to the date of death of Ritu, this would have been foremost in the mind of her brother and father and they would have certainly disclosed said fact to the Sub Divisional Magistrate.

18. I may additionally note that as per the statements of the father and brother of Ritu, she had returned to her matrimonial house on 6.6.2007 after living with them for over a month. Thus, harassment on account of dowry after 6.6.2007 would normally be expected to be uppermost in the mind of the father and brother of Ritu.

19. The circumstance which I find as emerging from the evidence are that the father and brother of Ritu have not stated anything about an immediate demand for dowry or a dowry related harassment immediately prior to the unfortunate day when Ritu died. The next circumstance which I find is in the statement of the brother of Ritu to the effect that when he spoke to the father-in-law of Ritu, he i.e. father-in-law of Ritu counselled Pradeep, husband of Ritu, but unfortunately he did not mend his ways. There are traces of compassion vis-a-vis the father-in-law

of Ritu as per statement of Ritu's brother. The next circumstance which I note is that in his statement, brother of Ritu had stated that demand for Skoda car was made by Pradeep i.e. husband of Ritu. Petitioners were not implicated with respect to the said dowry demand.

20. I note that the petitioners have roots in the society. They own immovable property in Delhi. There is hardly any apprehension of the petitioners fleeing from justice.

21. Lastly I note that the investigation is complete. A charge-sheet has been filed. Thus, all evidence required by the prosecution has been gathered.

22. I accordingly dispose of the petitions granting pre-arrest bail benefit to Satyawati and benefit of bail to Harbhajan.

23. Both petitions stand disposed of directing that on Satyawati furnishing a personal bond in sum of Rs.20,000/- with one surety in the like amount to the satisfaction of the learned Trial Judge she would be admitted to bail in the afore-noted FIR. On Harbhajan furnishing a personal bond in sum of Rs.20,000/- with one surety in the like amount to the satisfaction of the learned Trial Judge he would be released on bail in the afore-noted FIR by the learned Trial Judge.

24. Copy of this order be supplied dasti to learned counsel for the petitioners.

October 04, 2007 **PRADEEP NANDRAJOG, J.**
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